IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

Bail Appl..No. 7597 of 2007()

CRIME NO. 445/07 OF MATTANNUR POLICE STATION

PETITIONER/ACCUSED

N.V.SURENDRAN,"SUDHILAYAM"
CHAVASSERY P.O., MATTANNUR
KANNUR 670 702.

BY ADV. SRI.K.RAMAKUMAR (SR.)
SRI.T.RAMPRASAD UNNI
SRI.A.SAMEER
SMT.SMITHA GEORGE

RESPONDENTS: STATE & COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM.

2. THE STATION HOUSE OFFICER, MATTANNUR POLICE STATION, MATTANNUR, KANNUR DISTRICT.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 7597 of 2007

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Dated this the 10th day of December, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations in a crime registered under Section 308 I.P.C. The crux of the allegations against the petitioner is that he, a contractor, entertained animosity against the defacto complainant and his friends, who were not willing to be a party to defraud the Government by not taking part in the tender of the Kerala Water Authority. The petitioner allegedly wanted all the tenderors to enter into an unholy agreement. The defacto complainant and his friends were not willing to do that. They were threatened. When they went out of the office, an attempt was made to knock them down by running a jeep, which the petitioner was driving. Both the victims suffered injuries. They were rushed to the hospital. To the doctor and in the F.I. Statement they had made the specific allegation that an attempt was made by the petitioner on

account of such prior animosity to knock them down and cause their death by using the jeep. They were able to get away, as a result of which, they were only knocked down and they did not meet with their death. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations are totally false and fanciful. These allegations should not expose the petitioner to suffer the trauma of arrest and detention, submits the counsel.

3. The learned Prosecutor opposes the application. He submits that the totality of circumstances in this case cannot leave behind any doubt in the mind of the court about the acceptability of the allegations raised by the victims as also the eye witnesses, who had given their account of what had transpired.

4. I have considered the nature of the contentions raised. It was felt that a perusal of the case diary is necessary. I have perused the case diary. At this early stage of investigation I shall not embark on any detailed discussion on merits about the acceptability of the

allegations raised or the credibility of the data collected. Suffice it to say that on an anxious consideration of all relevant circumstances, I am unable to perceive any features in this case, which can justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This, I agree with the learned Prosecutor, is a fit case where the petitioner must be directed to appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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